

IN THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

NOTICE OF APPEAL TO THE COURT
OF APPEALS FOR THE FEDERAL CIRCUIT (CAFC)

US Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 20439

Sir:

INTRODUCTORY COMMENTS

The subject application has received a Decision of Appeal from the Board of Patent Appeals and Interferences of the US Patent and Trademark Office for:

In re Patent Application of:
Yasuhiro ISHII et al.

Application No.: 09/655,847

Filed: September 6, 2000

For: ELECTRIC POWER STEERING APPARATUS

dated July 17, 2008, which affirms-in-part and reverses-in-part the Examiner's rejection of the instant claims.

Remarks/Arguments begin on page 2 of this paper.

REMARKS

Pursuant to the reversal-in-part by the Board of Patent Appeals and Interferences, Appellants acknowledge that claim 10 contains allowable subject matter, and pursuant to this Notice of Appeal to the CAFC, respectfully request evaluation of the matter to be Briefed and Supplied to the CAFC within such time period as required by the practice rules before the CAFC; within two months time from the date of this Notice.

Appellants respectfully request that at least independent claim 7, from which claim 10 depends, should also be considered allowable for at least the additional points and bases set forth in more detail below.

The Decision by the Board of Patent Appeals and Interferences has offered some insight into the claim rejections of, for example, claims 7 and 10 advanced by the Examiner in charge of the instant application. However, Appellants respectfully assert that the insight contained within the Decision generated by the Board of Appeals did not properly interpret the combination of Eda (US Patent No. 6,044,723) and Kamimura (Japanese Patent No. JP 60-191758) as advanced by the Examiner in charge of the instant application. Specifically, no assertions made by either the Examiner or the Board of Appeals, correctly addressed the elemental combination as previously argued by Appellants' representative as focused upon the biasing member 30 having a curved surface of a circular arc in section contacting an outer circumferential surface of the second bearing 17 and spring support section, *inter alia* including a spring supporter 31 inserted so as to be moveable toward the second bearing hole 82; a spring body 32 of a coil spring supported by the spring supporter 31; a screw body 33 adjusting a flexure amount of the spring body 32 contracted in the tapped hole 84; and a locknut 34 screwed on the screw body 33. The biasing member deflects the second bearing toward the concave portion by operating the screw body 33 in a state where the locknut 34 is loose, to move the spring supporter 31. See, for example, Specification 11: 10-21.

Since the biasing member 30 deflects the second bearing 17 toward the concave portion 83 by operating the screw body 33, in a state (separate from the non-deflected state (added for

emphasis)) where the locknut 34 is loose to move the spring supporter 31. *Emphasis added.* Clearly the so-called biasing member deflecting the second bearing toward the concave portion 83 operates to redirect the applied forces or in other words prevents the applied forces from moving the second bearing 17 in a fashion away from the concave member.

Appellants respectfully assert that this descriptive construction stands in stark contrast to that descriptive construction offered by the Board of Appeals and accordingly, cast the Board of Appeals Decision in the improper posture with regards to at least this particular functionality as found within independent claim 7.

Accordingly, Appellants offer this as at least one meritorious basis by which to seek appeal before the Court of Appeals for the Federal Circuit. This singular basis is in no manner meant to be limiting the appeal to only this particular issue, however is presented at this time to preserve Appellants' rights in an advancement for rehearing before the Court of Appeals for this Federal Circuit.

Dated: November 7, 2008

Respectfully submitted,

By 

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November 2008, I via U.S. Postal Service, first class mailed the Petition to the Solicitor under 37 CFR § 1.182 to the U.S. Patent & Trademark Office, Office Of Solicitor at the mailing address of P.O. Box 15667, Arlington, Virginia, 22215, physically located at Madison West, 600 Dulany Street, Suite 8C43A, Alexandria, Virginia, 22314.

I hereby certify that on this 7th day of November 2008, three (3) copies of the Motion to Dismiss and New Motion for Notice of Appeal along with a check in the amount of \$450.00 made out to Clerk of Court, United States Court of Appeals for the Federal Circuit, 717 Madison Place, NW, Washington, D.C., 20439 sent via U.S. Postal Service, first class mail with fully pre-paid postage.

Certified by:  ESQ.
WILLIAM TITCOMB, ESQ.